

it is believed that this application is in condition for allowance. If, however, the Examiner believes that there are any unresolved issues, or believes that some or all of the claims are not in condition for allowance, the applicant respectfully requests that the Examiner contact the undersigned to schedule a telephone Examiner Interview before any further actions on the merits.

The applicant will now address each of the issues raised in the outstanding Office Action. Before doing so, the applicant notes that the claims may define particular units in a POS system that solely or exclusively store execution or maintenance programs, or exclusively or solely update such programs. Thus, the references used by the Examiner must not only show what is stored and where it is stored, but also that certain programs are stored solely or exclusively by a particular unit, or that certain programs are updated or maintained solely or exclusively at a particular unit.

Rejections under 35 U.S.C. § 112

Claim 24 stands rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the invention. The applicant respectfully requests that the Examiner reconsider and withdraw this ground of rejection in view of the following.

The Examiner contends that the phrase "each of the shop-side POS terminal unit" makes it unclear as to whether it is intended to be singular or plural. The "each of" defines what data transfer lines connect the host unit

to. Claim 24 has been amended to more clearly recite that the data transfer lines connect the host unit to "each of"

- (1) the shop-side POS terminal unit,
- (2) the bank-related system,
- (3) the credit-related system, and
- (4) the maintenance center.

The Examiner also contends that the applicant is trying to incorporate the bank-related system and credit-related system into the claim. This is not the case. As clarified in the foregoing, the applicant was merely claiming what various data transfer lines coupled the host to. In view of the foregoing, claim 24 clearly complies with the requirements of 35 U.S.C. § 112. Accordingly, the applicant respectfully requests that the Examiner reconsider and withdraw this claim.

Rejections under 35 U.S.C. § 102

Claims 1-2, 6-15 and 21-23 stand rejected under 35 U.S.C. § 102 as being anticipated by any one of U.S. Patent No. 3,181,124 (referred to as "the Hammel patent"), U.S. Patent No. 5,003,472 (referred to as "the Perrill patent"), and U.S. Patent Application No. 2002/0126632 (referred to as "the Terranova application"). Claim 24 stands rejected under 35 U.S.C. § 102 as being anticipated by the Terranova application. The applicant respectfully requests that the Examiner reconsider and withdraw these grounds of rejection in view of the following.

Independent claims 1, 10 and 13

Independent claims 1, 10 and 13 are not anticipated by the Hammel patent, the Perrill patent, or

the Terranova application because none of these references teach (i) execution programs stored at the host unit but not at the POS terminal, (ii) execution programs updated only at the host unit, or (iii) maintenance programs stored only in the host unit. The Examiner contends that (i) maintenance programs would only be stored in the host system of the Hammel patent (Paper No. 7, page 2), (ii) that the host computer in the Perrill patent would solely contain a maintenance program (Paper No. 7, page 3), and (iii) that the terms "maintenance programs" and "execution programs" do not provide a line of demarcation over the Hammel and Perrill patents (Paper No. 7, pages 2 and 3). These contentions are either unsubstantiated or irrelevant.

Since the Examiner has not shown that all of the elements of the invention, as stated in the claim, are identically set forth in any of these references, the claims are not anticipated. See, e.g., Gechter v. Davidson, 43 U.S.P.Q.2d 1030, 1032 (Fed. Cir. 1997). Merely "deeming" that a reference contains an element to an extent that the claimed invention "does not provide a line of demarcation over" the cited reference is not a proper test of anticipation. In any event, the claims specify where maintenance or execution programs are exclusively located. None of the references provide an identical teaching. Accordingly, claims 1, 10 and 13 are not anticipated by the cited references for at least this reason. Since claims 6-8, 18 and 22, and 19 and 23 depend from claims 1, 10 and 13, respectively, they are similarly not anticipated by these patents.

Even if the Examiner's improper relaxed test of anticipation were applied, the Hammel patent does not teach a POS system in which programs for the maintenance of POS

system are provided only at the host. In the Hammel patent, the computations of the central transaction system is apparently limited to simple operations of addition or counting. (See, e.g., column 4, lines 34-41.) That is, in the Hammel patent the computations of the central transaction system are apparently limited to simple operations of addition or counting, and there is no technical requirement concerning execution programs and/or maintenance programs of a POS system. The Perrill patent does not teach storing a maintenance program for the wireless terminals solely at the host. Indeed, changes to the menu are presumably effected by changing the template with bar codes provided on the wireless terminal. Furthermore, the wireless terminals are used for entering orders, while separate cash drawer terminals are used for consummating sales. The Perrill patent does not disclose execution programs and/or maintenance programs of a POS system, which are/is stored in a host unit and which are/is updated only on the host side. The Terranova application does not teach where maintenance and execution programs are exclusively stored and updated.

Independent claim 9

Independent claim 9 is not anticipated by the Hammel patent, the Perrill patent, or the Terranova application because these references do not disclose updating execution programs only at the host. Since the Hammel patent is hardware based, presumably updates are not contemplated, or require extensive changes to the hardware throughout the system. The Terranova patent apparently is not concerned with updating execution programs. Regarding the Perrill patent, as stated above, changes to the menu

are presumably effected by changing the template with bar codes provided on the wireless terminal, not at a host. In view of the foregoing, claim 9 is not anticipated by any of these references. Since claims 17 and 21 depend from claim 9, they are similarly not anticipated by any of these references.

Independent claim 14

Independent claim 14 is not anticipated by the Hammel patent, the Perrill patent, or the Terranova application because these references do not disclose that a host exclusively stores all POS executed programs and that sales data is forwarded to the host from a POS terminal as soon as the data is generated. Since claim 15 depends from claim 14, it is similarly not anticipated by any of these references.

Independent claim 24

Independent claim 24 is not anticipated by the Terranova application because the Terranova application does not disclose a maintenance center and the arrangement of units specified in the claim.

Rejections under 35 U.S.C. § 103

Claims 3-5 stand rejected under 35 U.S.C. § 103 as being unpatentable over the Perrill patent. The applicant respectfully requests that the Examiner reconsider and withdraw this ground of rejection in view of the following.

Claim 3 is not rendered obvious by the Perrill patent because one skilled in the art would not have been

motivated to modify the Perrill patent as proposed by the Examiner. The Examiner contends that (i) compression is well known, (ii) screen scripting languages for controlling remote terminals are also well known, and (iii) it would have been obvious to one of ordinary skill in the art to use compressed transmission, together with a screen control or scripting language, to achieve a rapid transmission rate and a desirable data display on the remote terminal. However, compression has some inherent drawbacks such as a higher potential to corrupt data, cost and time for compression and decompression, the loss of some detail. In the Perrill patent, there is no apparent need for a rapid transmission rate to offset the drawbacks of compression. The Examiner uses a relaxed "does not preclude" test for obviousness. However, the applicable law requires that the prior art suggest the modification (See, e.g., Northern Telecom, Inc. v. Datapoint Corp., 15 U.S.P.Q. 2d 1321, 1323 (Fed. Cir. 1990) cert. denied, 498 U.S. 920 (1990)), not merely that one is possible. Accordingly, one skilled in the art would not have been motivated to modify the Perrill patent as proposed by the Examiner. Therefore, claim 3 is not rendered obvious by the Perrill patent and art purported to be well known by the Examiner.

Claims 3-10 and 13-24 stand rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 5,959,909 (referred to as "the Wallner patent"). The applicant respectfully requests that the Examiner reconsider and withdraw this ground of rejection in view of the following.

First, since dependent claims 3-8 include the elements of independent claim 1, and since the Examiner has

not rejected claim 1 using the Wallner patent, the Examiner has not made a *prima facia* showing of obviousness.

Independent claim 9 is not rendered obvious by the Wallner patent because it does not teach or suggest updating execution programs only at the host. Indeed, the Examiner never contends that the Wallner patent teaches or suggests this feature. Thus, claim 9 is not rendered obvious by the Wallner patent for at least this reason. Since claims 17 and 21 depend from claim 9, they are similarly not rendered obvious by the Wallner patent.

Independent claim 10 is not rendered obvious by the Wallner patent because it does not teach or suggest providing, solely in the host unit, a maintenance system for maintaining a plurality of different types of POS systems. Examiner never contends that the Wallner patent teaches or suggests this feature. Thus, claim 10 is not rendered obvious by the Wallner patent for at least this reason. Since claims 18 and 22 depend from claim 10, they are similarly not rendered obvious by the Wallner patent.

Independent claims 13 and 14 are not rendered obvious by the Wallner patent because it does not teach or suggest that a host exclusively stores all POS executed programs and that sales data is forwarded to the host from a POS terminal as soon as the data is generated. Examiner never contends that the Wallner patent teaches or suggests these features. Accordingly, independent claims 13 and 14 are not rendered obvious by the Wallner patent for at least these reasons. Since claims 19 and 23 depend from claim 13, and since claim 15 depends from claim 14, these claims are similarly not rendered obvious by the Wallner patent.

Independent claim 24 is not rendered obvious by the Wallner patent because it does not teach or suggest a

maintenance center and the arrangement of units specified in the claim. Indeed, the Examiner never contends that the Wallner patent teaches or suggests a maintenance center. Accordingly, claim 24 is not rendered obvious by the Wallner patent for at least this reason.

Conclusion

In view of the foregoing amendments and remarks, the applicant respectfully submits that the pending claims are in condition for allowance. Accordingly, the applicants request that the Examiner pass this application to issue.

Respectfully submitted,

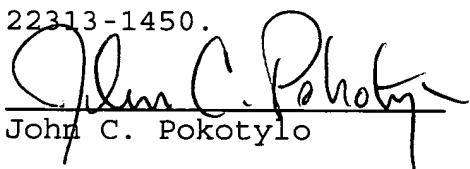
May 21, 2003


John C. Pokotylo, Attorney
Reg. No. 36,242
Customer No. 26479
(732) 335-1222

STRAUB & POKOTYLO
1 Bethany Road
Suite 83
Hazlet, NJ 07730

CERTIFICATE OF MAILING under 37 C.F.R. 1.8(a)

I hereby certify that this correspondence is being deposited on **May 21, 2003** with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to the Assistant Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.


John C. Pokotylo

Reg. No. 36,242

SEPARATE SHEET WITH MARKED-UP VERSION OF CLAIM PER 37

C.F.R. § 1.121 (c)(1)(iii)

1 24. (AMENDED) Apparatus for use in a system including a
2 bank-related system for executing settling processes based
3 on sales data and a credit-related system for executing
4 settling processes based on sales data, the apparatus
5 comprising:

6 a) a host unit;
7 b) a shop-side POS terminal unit for generating the
8 sales data;
9 c) a maintenance center; and
10 d) data transfer lines connecting the host unit to
11 each of (1) the shop-side POS terminal unit, (2) the
12 bank-related system, (3) the credit-related system,
13 and (4) the maintenance center,

14 wherein the sales data used by the bank-related
15 system and credit-related system are provided from the
16 shop-side POS terminal unit, and

17 wherein programs for executing processes on the
18 shop-side POS terminal unit for a plurality of different
19 kinds of services are stored on the host unit.-